

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA

| | | |
|--|---|-------------------|
| In Re: |) | |
| |) | |
| Red River Subs, Inc. |) | |
| d/b/a Erbert and Gerbert's - Fargo, |) | Case No. 24-30010 |
| d/b/a Erbert and Gerbert's - Bismarck, |) | |
| d/b/a Erbert and Gerbert's - Moorhead, |) | Chapter 11 |
| |) | Subchapter V |
| |) | |
| Debtor |) | |

FIRST INTERIM APPLICATION OF THOMAS J. KAPUSTA FOR SUBCHAPTER V TRUSTEE FEES AND
EXPENSES

Thomas J. Kapusta, in his capacity as the Sub Chapter V Trustee d/b/a TK Enterprises, LLC {"Applicant"}, pursuant to 11 U.S.C. §§ 330 and 331, hereby requests that the Court approve its Application and enter an Order thereby awarding certain Sub Chapter V Trustee fees and expenses incurred in connection with this case. In support thereof, Applicant respectfully represents:

1. Applicant is the Sub Chapter V Trustee of record for the Chapter 11 proceeding and has acted as such since being appointed same on January 16, 2024.
2. Thomas J. Kapusta is manager and sole member of TK Enterprises, LLC. Thomas J. Kapusta has over 40 years of experience as a practicing attorney in multiple jurisdictions.
3. Applicant has expended time in the form of professional services in support of this Chapter 11 Sub Chapter V proceeding. This time has been itemized on records reflecting

the work performed by the Applicant during the period covered by this First Interim Application. Attached hereto as Exhibit "A" are the time records/invoicing (Invoice #121) related to the services, setting forth the date of each service, a description of the service rendered, and the time spent rendering such service at a rate of \$275.00 per hour plus expenses noted, and the resulting fee charge on account of the service listed.

4. Applicant has listed on Exhibit "A" any expenses incurred directly in connection with Applicant's duties as Sub Chapter V Trustee of this proceeding and were necessary to Applicant's services.
5. This first interim application includes fees and expenses in the aggregate amount of \$2312.20 including expenses in the amount of \$112.20 for the period of January 16, 2024, through March 28, 2024, that have not been previously applied for or approved for payment.
6. Work on this case during the time concerned has involved services from the Applicant related to the: (i) review, evaluation and verification of the Debtor's Schedules and Statements as required under 11 U.S.C. §521; (ii) meeting with the United States Trustee's office and court including the Initial Debtor Interview; the first meeting of creditors; working with Debtor Counsel and with Debtor and debtors creditors, (iii) reviewing any Debtor monthly operating reports; (iv) and general work including financial analysis, review of motions and responding to inquiries, meeting with applicable creditors and debtor counsel regarding the Chapter 11 Sub Chapter V proceeding.
7. The undersigned trustee represents to the Court that the services and expenses

provided during the period covered by this First Interim Fee Application were ordinary and necessary given the nature of this Chapter 11 Sub Chapter V proceeding, and that no work was excessive or detrimental to the Bankruptcy Estate.

8. Applicant further requests that the Court, pursuant to 11 U.S.C. §, 330 and 331 approve the allowance of fees and expenses as sought in this First Interim Fee Application and authorize the Applicant to receive such fees and expenses as approved by the Court from funds that are currently available from the previously approved security deposit of \$5,000 in the account maintained by the Applicant.

WHEREFORE, Applicant prays that the Court, pursuant to 11 U.S.C. § 330 and 331, enter an Order approving the First Interim Application for Fee and Expenses of the Applicant, and award compensation for services rendered and expenses in the amount of \$2312.20 for the period covered in the First Interim Application, and allow the Applicant to immediately withdraw such approved amount from the Applicant held security deposit account, and for any and all other relief deemed just and equitable in the premises.

Dated: March 28, 2024

Signed: Thomas J. Kapusta

Thomas J. Kapusta, Sub Chapter V Trustee
TK Enterprises, LLC
PO Box 90624
Sioux Falls, SD 57109
Phone: 605-376-6715
Email: tkapusta@aol.com

| | |
|---------------------------------------|---|
| Thomas J Kapusta | EXHIBIT A |
| TK Enterprises, LLC | |
| Subchapter V Trustee | |
| PO Box 90624 Sioux Falls, SD 57109 | Phone: 605-376-6715 tkapusta@aol.com |

Bill To: Red River Subs, Inc. Maurice VerStandig The Dakota Bankruptcy Firm
1630 1st Avenue N Suite B PMB 24 Fargo, ND 58102
Address: See above

Phone: 701-394-3215
Email: mac@mbvesq.com

Invoice #: 121
Invoice Date: March 28, 2024

Case Name: Red River Subs, Inc.

Case #: 24-30010

| Date | Services | Time Spent | Fee Total |
|-----------|---|------------|-----------|
| 1/16/2024 | Review for conflicts, review petition, all docket entries 1-17, execute and submit verification statement and calendar scheduled events | 1.2 hr | \$330.00 |
| 1/16/2024 | Review entries 18-20, calendar new events, prepare and file motion to appear by video for first day motions | .5 hr | \$137.50 |
| 1/17/2024 | Review and respond to USTO emails regarding IDI scheduling | .1 hr | \$27.50 |
| 1/17/2024 | Review entries and documents #21-25 | .2 hr | \$55.00 |
| 1/17/2024 | Receive and schedule IDI information | .1 hr | \$27.50 |
| 1/17/2024 | Review entry 26 | .1 hr | \$27.50 |
| 1/17/2024 | Review debtor counsel email to parties of interest regarding first day motions | .1 hr | \$27.50 |
| 1/19/2024 | Review docket entries 28-35 | .2 hr | \$55.00 |
| 1/19/2024 | Attend and participate in expedited first day motions | 1.0 hr | \$275.00 |
| 1/20/2024 | Review docket entries #36-48 | .2 hr | \$55.00 |
| 1/22/2024 | Review docket entries 50-54 | .1 hr | \$27.50 |
| 1/22/2024 | Preliminary review of debtor's tax returns and financial statements and certificate of insurance | .2 hr | \$55.00 |
| 1/22/2024 | Prepare for and attend IDI | .6 hr | \$165.00 |
| 1/23/2024 | Review Proof of claim 1-1 | .1 hr | \$27.50 |
| 1/27/2024 | Review proof of claim 2-1 | .1 hr | \$27.50 |
| 2/1/2024 | Review proof of claim 3-1 | .1 hr | \$27.50 |
| 2/2/2024 | Review proof of claim 4-1 | .1 hr | \$27.50 |
| 2/3/2024 | Review docket entries 55-57 | .1 hr | \$27.50 |
| 2/2/2024 | Prepare and send monthly trustee report | .1 hr | \$27.50 |
| 2/6/2024 | Review docket entry 58 approving application to employ debtor counsel | .1 hr | \$27.50 |
| 2/6/2024 | Review notice of appearance entry 59 | .1 hr | \$27.50 |
| 2/8/2024 | Review proof of claim 5-1 and docket entries 60-65 | .3 hr | \$82.50 |
| 2/12/2024 | Review entries 66-69 | .1 hr | \$27.50 |
| 2/15/2024 | Review notice of appearance #70 | .1 hr | \$27.50 |
| 2/15/2024 | Attend and participate in creditors' meeting | .8 hr | \$220.00 |
| 2/21/2024 | Review entry 71 | .1 hr | \$27.50 |
| 2/26/2024 | Review proof of claim 6-1 | .1 hr | \$27.50 |
| 2/29/2024 | Review proof of claim 7-1 | .1 hr | \$27.50 |
| 3/2/2024 | Prepare and submit monthly trustee report | .1 hr | \$27.50 |
| 3/2/2024 | Receive and review letter from IRS regarding tax returns not filed | .1 hr | \$27.50 |
| 3/5/2024 | Attend and participate in status conference | .2 hr | \$55 |
| 3/5/2024 | Review scheduling order #73 and calendar events | .1 hr | \$27.50 |
| 3/22/2024 | Review proof of claim 8-1 | .1 hr | \$27.50 |
| 3/25/2024 | Review proof of claim 9-1 and MOR #75 | .2 hr | \$55 |

| Date | Services | Time Spent | Fee Total |
|--|----------------------------|------------------------------------|------------|
| 3/26/2024 | Review MOR #76 | .1 hr | \$27.50 |
| 3/27/2024 | Review proof of claim 10-1 | .1 hr | \$27.50 |
| | | | |
| | | Invoice Subtotal for services only | \$2,200.00 |
| | | Service of process expense | \$112.20 |
| | | | |
| | | | |
| | | | |
| DUE UPON RECEIPT. | | | |
| Make all checks payable to Thomas J Kapusta. | | TOTAL | \$2,312.20 |

TRUSTEE SIGNATURE: ss/Thomas J. Kapusta
Date: March 28, 2024

Thomas Kyrester

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA

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| |) | |
| Debtor |) | |

NOTICE OF FIRST INTERIM APPLICATION OF THOMAS J. KAPUSTA
FOR SUBCHAPTER V TRUSTEE FEES AND EXPENSES

Thomas J. Kapusta, Subchapter V Trustee, has filed an application to be paid from the bankruptcy estate \$2200.00 for compensation for fees and \$112.20 for reimbursement of expenses, for a total of \$2312.20 in fees and expenses. Your rights may be affected. You should read the application and this notice carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to approve the application, you or your attorney have twenty-one (21) days to file with the Bankruptcy Clerk, a typewritten response explaining your position. The response must include the case name and case number and be signed and dated by you or your attorney. The response should also include your daytime telephone number or, if your attorney files the response, your attorney's telephone number. Only an attorney may file a response on behalf of a corporation, a partnership, or another formal legal entity.

If you are an attorney, you must file any response electronically. See additional information regarding electronic filing (CM/ECF) on the Court's website at www.ndb.uscourts.gov. If you are not an attorney, your response may be mailed or delivered to the Bankruptcy Clerk, whose address is 655 1st Avenue North, Suite 210, Fargo, North Dakota 58102-4932. The response must be mailed early enough to ensure the Bankruptcy Clerk receives it on or before the deadline stated above.

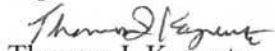
If you or your attorney files a response, you or your attorney must also mail a copy of the response to parties in interest who will not receive electronic notice of the response. You or your attorney may obtain the names and addresses of the parties-in-interest listed in by contacting the Bankruptcy Clerk's office at (701) 297-7100.

A hearing on the application may be set by separate order if a response is filed on or before the deadline stated above. If you or your attorney files a response to the application on or before the deadline stated above, the Court will call you or your attorney at the scheduled hearing time using the telephone number provided in the response. If an evidentiary hearing is needed, the Court will set the date, time, and place for the evidentiary hearing during the telephonic hearing. Only an attorney may represent a corporation, a partnership, or another formal legal entity at a hearing.

If no one files a response on or before the deadline stated above, the Court may enter an order granting the application without a hearing.

Dated: March 28, 2024

Signed: s/Thomas J. Kapusta



Thomas J. Kapusta

TK Enterprises, LLC

PO Box 90624

Sioux Falls, SD 57109

Phone: 605-376-6715

email: tkapusta@aol.com

Sub Chapter V Trustee